IN THE HIGH COURT OF UTTARANCHAL,
AT NAINITAL.

A.O. No. 1226/2001
(F.A. No. 11/1992)

Oriental Insurance Company Ltd.
Dehradun .. Appellant.

Vs.

1- Tara Dutt S/o Parmanand C/o Kripal Singh
alias Vir Singh Negi, Simlasu, Tehri
District Tehri Garhwal.
2. The General Manager, DITCO C/o Thapar Intrafor
Company Simlasu Tehri, District Tehri Garhwal.
3. Thapar Intrafor Company, Simlasu, Tehri
District Tehri Garhwal through its General manager.
4. State of U.P. through Secretary, Ministry of
Irrigation, Government of U.P. Lucknow …. Respondents.

Sri Prabhat Pandey, learned counsel for the appellant.
Sri Rajendra Dobhal, learned counsel for the respondents.

(Hon'ble B.C. Kandpal, J.)

This appeal has been filed by the Oriental Insurance Company, against the judgment and award dated 29-10-91 passed by the Workmen Compensation Commissioner, in W.C.A. No. 26/1986 Tara Dutt Vs. General Manager, DITCO and others.

2- Brief facts of the case are that the claim petition was filed by Tara Dutt before the Workmen Compensation Commissioner for compensation on the ground that the claimant was under the employment of the respondent Nos. 2 and 3. He was working as a helper in vehicle No. USQ 613 which was owned by respondents 2 and 3. On 8-6-1985 when he was on duty, he met with an accident by the aforesaid vehicle, resulting grievous injuries on his person. The claimant has asserted that on account of the injuries sustained by him, he has become completely disabled and has been removed from his services on account of his inability. The claimant, has thus, filed the petition for compensation.

3- The notices were issued to the respondents. The respondents 2 to 4 along with the appellant filed their written statements.

4- After having considered the pleadings adduced by the parties, the Workmen Compensation Commissioner, framed following issues for consideration:-

1- Whether the nature of injuries sustained by the claimant is as such that the claimant has become permanently disabled for doing his work?. If so, its effect?.
2- Whether the Insurance Company is liable to pay the amount of compensation?.
3- To what amount of compensation, the claimant is entitled?.

5- The claimant in support of his case, produced medical certificate in documentary evidence and also produced himself as well as Dr. K.N. Lakheda and Dr. G.C. Maithani in oral evidence. The respondents did not adduce any oral evidence but produced the insurance policy.

6- The Workmen Compensation Commissioner haver having perused the entire material available on record and hearing learned counsel for the parties, was pleased to allow the claim case and directed that the claimant is entitled for an amount of Rs. 45,780/- as compensation. The Workmen Compensation Commissioner also directed that the amount awarded in favour of the claimant shall be paid by the Insurance Company.

7- Feeling aggrieved by the aforesaid impugned judgment and award, the Insurance Company has preferred the appeal before the Allahabad High Court, which has been transferred to this court, after creation of new State.

8- Heard learned counsel for the parties and perused the record.

9- The claimant Tara Dutt examined himself before the court below and his deposition reveals that he has stated on oath that on 8-6-1985 at about 7-30 A.M. he met with an accident while he was on his duty resulting grievous injuries on his person. He has further

deposed that on account of injuries sustained by him his voice was effected and his services were terminated on the ground that he could not perform his duty propely.

10- The other witnesses, i.e. Dr. Lakheda and Dr. Maithani, produced on behalf of the claimant, were cross-examined by the respondents. The insurance police is admitted. The medical certificate produced on behalf of the claimant has also been proved as Ext.Ka.1. According to the opinion of the doctors there was paralysis in the right vocal cord of the claimant and on account of this the claimant could not speak properly. The doctors have further deposed that the claimant was not able to work as a cleaner in the vehicle on account of the injuries sustained by him.

11- The Workmen Compensation Commissioner, on the basis of the medical certificate, which has been duly proved by the doctors, has come to the conclusion that the claimant thus sustained permanent disability and he become incapable of doing the work in the vehicle owned by the respondent Nos. 2 and 3. The Workmen Compensation Commissioner has rightly observed that the employees of respondent Nos. 2 and 3 were insured with the Oriental Insurance Company, therefore, the Insurance Company is liable to pay the compensation awarded in favour of the claimant.

12- For the reasons stated above, I do not find any illegality or infirmity in the impugned judgment and award passed by the Workmen Compensation Commissioner.

13- The appeal lacks merit and is liable to be dismissed.

14- Accordingly the appeal is dismissed. The impugned judgment and award is hereby confirmed.

15- The interim order, if any, stands vacated.

(B.C. Kandpal, J.)

Dated: 13-12-2006
ISB